

Return Date: May 9<sup>th</sup>, 2017  
Time: 1:30 P.M.

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

Chapter 13  
Case No. 16-36775 CGM

**JEFFREY MILLER,**

**NOTICE OF MOTION**

Debtor(s)

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**PLEASE TAKE NOTICE**, that upon the annexed application of Jeffrey L. Sapir the Chapter 13 Trustee herein, a motion will be made before the Hon. Cecelia G. Morris, United States Bankruptcy Judge, at the United States Courthouse, located at 355 Main Street, Poughkeepsie, New York, on the 9<sup>th</sup> day of May, 2017, at 1:30 P.M. for an order dismissing the Chapter 13 case pursuant to 11 U.S.C. §1307(c)(1), (c)(4) and §521(e) on the ground that there has been unreasonable delay by the debtor that is prejudicial to creditors, in that the debtor failed to provide copies of federal and state tax returns for certain of the most recent tax years, failed to remit timely plan payments to the trustee; and for such other and further relief as this Court deems just and proper.

**PLEASE TAKE FURTHER NOTICE**, that answering papers, if any, are to be served on the undersigned and filed with the Court no later than three (3) days prior to the return date of this motion, and (a) must comply with the Bankruptcy Court's electronic filing system in accordance with General Order M-242 and Supplemental General Order M-269.

Dated: White Plains, New York  
April 12<sup>th</sup>, 2017

/s/ Jeffrey L. Sapir  
**Jeffrey L. Sapir, Esq. (JLS 0938)**  
**Chapter 13 Trustee**  
**399 Knollwood Road**  
**White Plains, New York 10603**  
**Chapter 13 Tel. No. 914-328-6333**

TO: United States Trustee  
74 Chapel Street  
Albany, New York 12207

Jeffrey Miller  
P.O.Box 63  
Rock Hill, New York

Linda M Tirelli, Esq  
Garvey Tirelli & Cushner, Ltd.  
50 Main Street # 390  
White Plains New York 10606

HSBC Bank National Association  
c/o Wells Fargo Bank Camp  
1000 Blue Gentian Road  
MAC #N9286-01Y  
Eagan, Minnesota 66121

BMW Financial Services NA< LLC\  
P.O. Box 3608  
Dubliu,Ohio,43016

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
IN RE:

Chapter 13  
Case No. 16-36775 CGM

**JEFFREY MILLER,**

**APPLICATION**

Debtor(s)

-----X  
**TO THE HON. CECILIA G. MORRIS, BANKRUPTCY JUDGE:**

1. The debtor filed the instant voluntary Chapter 13 proceeding on October 14<sup>th</sup>, 2016.
2. A hearing on confirmation was held on April 4<sup>th</sup>, 2017.
3. The debtor failed to comply with the provisions of 11 U.S.C. §1307(c)(1) and (c)(4).
4. The debtor is in violation of §521(e)(2)(A)(i) of the Bankruptcy Code which requires the debtor to provide copies of federal and state tax returns for certain of the most recent tax years, to wit, 2016.
5. The debtor has failed to remit timely plan payments to the trustee, having remitted three payments, and being, at this juncture, two months in arrears.
6. The debtor's plan is not feasible in that the debtor is unable to remit monthly payments as required under 11 U.S.C. §1325(a)(6) and §1326(a)(1).
7. The delay created by the debtor is prejudicial to creditors.

8. The debtor having failed to comply with the abovementioned sections of the Bankruptcy Code, this Chapter 13 case should be dismissed pursuant to 11 U.S.C §1307 (c )(1), (c )(4), (c )(9), and §521(e)(2)(A)(i) and (2)(B); and for such other and further relief as this Court may deem just and proper.

Dated: White Plains, New York  
April 12<sup>th</sup>, 2017

/s/ Jeffrey L. Sapir  
**Jeffrey L. Sapir**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x

IN RE:

Chapter 13  
Case No. 16-36775 CGM

**JEFFREY MILLER, ,**

Debtor(s)

-----x

**AFFIDAVIT OF MAILING**

STATE OF NEW YORK                    )  
COUNTY OF WESTCHESTER        ) ss.:

Lois Rosemarie Esposito, being duly sworn, deposes and says:

I am not a party to the action herein, I am over the age of 18 years and reside in  
the County of Westchester, State of New York.

On April 12<sup>th</sup>, 2017 I served a true copy of the within document, to the herein  
listed parties at the address(es) designated for that purpose, by mailing same in a properly sealed  
envelope with postage prepaid thereon, in an official depository of the United States Postal  
Service within the State of New York to the following:

**TO:** United States Trustee  
74 Chapel Street  
Albany, New York 12207

Jeffrey Miller  
P.O.Box 63  
Rock Hill, New York

Linda M Tirelli, Esq  
Garvey Tirelli & Cushner, Ltd.  
50 Main Street # 390  
White Plains New York 10606

HSBC Bank National Association  
c/o Wells Fargo Bank Camp  
1000 Blue Gentian Road  
MAC #N9286-01Y  
Eagan, Minnesota 66121

BMW Financial Services NA< LLC\  
P.O. Box 3608  
Dubliu,Ohio,43016

/s/ Lois Rosemarie Esposito  
Lois Rosemarie Esposito

Sworn to before me this  
12<sup>th</sup> day of April, 2017

/s/ Jeffrey L. Sapir  
Jeffrey L. Sapir  
Notary Public, State of New York  
No.02SA8764500  
Qualified in Rockland County  
Term Expires: 12/31/18